

FILED

APR 23 2007

U.S. DISTRICT COURT
BAY CITY, MICHIGAN**PAID**
DTE 26712

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

H. RICHARD FRUEHAUF, JR.,

Plaintiff,

vs.

FRUEHAUF PRODUCTION COMPANY
LLC,

Defendant.

Case No.

07 - 11767

JUDGE THOMAS L. LUDINGTON

**MAGISTRATE JUDGE
CHARLES E. BINDER**

A civil action between the parties arising out of the transaction or occurrence alleged in this Complaint has been previously filed in this Court, and was dismissed pursuant to Fed. R. Civ. P. Rule 41(a)(1)(i). The Docket Number assigned to this previously filed and dismissed action was Docket No. 2:04-cv-74625-BAF-WC, and the Judge assigned to the action was the Honorable Bernard A. Friedman.

COMPLAINT TO CONFIRM ARBITRATION AWARD

Plaintiff, H. Richard Fruehauf, Jr. ("Dick Fruehauf"), through his attorneys, Clark Hill PLC, states as follows for his Complaint to Confirm Arbitration Award against Defendant Fruehauf Production Company, LLC ("FPC" or "Defendant"):

JURISDICTION AND VENUE

1. Plaintiff Dick Fruehauf is a citizen of the State of Florida.
2. Defendant FPC is a Michigan limited liability company that conducts business and maintains an office in Otsego County, Michigan at 990 South Wisconsin, Gaylord, Michigan 49735, and is a citizen of a state or states other than Florida. Jurisdiction is proper in this Court

pursuant to 18 U.S.C. § 1332, because there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000.

3. Venue is proper in this Court pursuant to 18 U.S.C. § 1331(a), because Defendant FPC resides, is subject to personal jurisdiction, conducts business and maintains an office in Otsego County, Michigan.

COUNT I
CONFIRMATION OF ARBITRATION AWARD

4. The parties to this action entered into a written contract, which included a mandatory arbitration clause.

5. A dispute arose out of said contract, and Dick Fruehauf initiated litigation against Defendant FPC which was assigned to the Honorable Bernard A. Friedman (the "Litigation").

6. The parties to the Litigation agreed to submit the dispute to arbitration, and the Litigation was subsequently dismissed without prejudice.

7. From the later part of 2004, through July 2006, the claims raised by Dick Fruehauf against Defendant (among other claims) were arbitrated before a panel of arbitrators mutually agreed upon by the parties. This arbitration proceeding was managed by the American Arbitration Association ("AAA").

8. On July 7, 2006, the arbitrators delivered a written Arbitration Award (the "Award") on the claims raised by Dick Fruehauf against FPC, providing for, *inter alia*, payment of \$375,000.00, plus interest from FPC to Dick Fruehauf. A copy of the award is attached as Exhibit A. Counterclaims by FPC and other Respondents against Claimant Dick Fruehauf were deferred by the arbitration panel for further hearing.

9. The Award fully determined the entire claim by Dick Fruehauf against FPC and is ripe for confirmation by this Court pursuant to 9 U.S.C. § 9.

10. Pursuant to 9 U.S.C. § 9, the Award has been filed with the Clerk of the Court within one year after the Award was rendered.

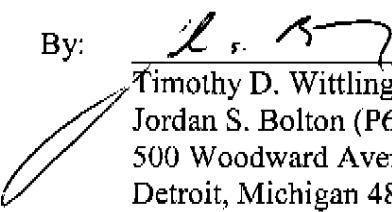
11. The Award is valid and should be confirmed by the Court.

WHEREFORE, Plaintiff Dick Fruehauf requests that this Court (1) issue an order confirming the Award as rendered by the arbitrators; (2) enter judgment on the confirmed Award; and (3) grant Dick Fruehauf his costs and any other just and equitable relief warranted under the circumstances of this case.

Respectfully submitted,

CLARK HILL PLC

By:


Timothy D. Wittlinger (P22490)

Jordan S. Bolton (P66309)

500 Woodward Avenue, Suite 3500

Detroit, Michigan 48226-3435

(313) 965-8300

Attorneys For H. Richard Fruehauf, Jr.

Date: April 20, 2007

CIVIL COVER SHEET

COUNTY IN WHICH ACTION AROSE: Otsego

(4/1/99)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFF

H. RICHARD FRUEHAUF, JR.,

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Florida

DEFENDANT

FRUEHAUF PRODUCTION COMPANY, LLC,

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Otsego County, Michigan
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

CLARK HILL, PLC

Timothy D. Wittlinger (P22490)

Jordan S. Bolton (P66309)

500 Woodward Ave.

Suite 3500

Detroit, Michigan 48226

(313) 965-8300

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- | | |
|-----------------------------|---|
| 1 U.S. Government Plaintiff | 3 Federal Question (U.S. Government Not a Party) |
| 2 U.S. Government Defendant | X 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

		N/A	PTF	DEF	PTF	DEF
Citizen of This State						X
Citizen of Another	X					
Citizen or Subject of a Foreign Country						

IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
110 Insurance	PERSONAL INJURY	PERSONAL INJURY		
120 Marine	I 310 Airplane	I 362 Personal Injury-Med. Malpractice	I 422 Appeal 28 USC 158	I 400 State Reapportionment
130 Miller Act	I 315 Airplane Product Liability	I 365 Personal Injury Product Liability	I 423 Withdrawal 28 USC 157	I 410 Antitrust
140 Negotiable Instrument	I 320 Assault, Libel & Slander	I 368 Asbestos Personal Injury Product Liability		I 430 Banks and Banking
150 Recovery of Overpayment & Enforcement of Judgment	I 330 Federal Employers' Liability			I 450 Commerce/ICC Rates
151 Medicare Act	I 340 Marine	PERSONAL PROPERTY		I 460 Deportation
152 Recovery of Delinquent Student Loans (Excl Veterans)	J 345 Marine Product Liability	I 370 Other Fraud		I 470 Racketeer Influenced & Corrupt Organizations
153 Recovery of Overpayment of Veteran's Benefits	I 350 Motor Vehicle	I 371 Truth in Lending		I 510 Selective Service
160 Stockholders' Suits	J 355 Motor Vehicle Product Liability	I 380 Other Personal Property Damage	I 820 Copyrights	I 850 Securities/Commodities Exchange
X 190 Other Contract	I 360 Other Personal Injury	I 385 Property Damage	I 830 Patent	I 875 Customer Challenge
195 Contract Product Liability		Product Liability	I 840 Trademark	12 USC 3410
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	
210 Land Condemnation	I 441 Voting	I 510 Motions to Vacate Sentence	I 861 JIA (1395f)	I 891 Agricultural Acts
220 Foreclosure	I 442 Employment	HABEAS CORPUS:	I 862 Black Lung (923)	I 892 Economic Stabilization Act
230 Rent Lease & Ejectment	I 443 Housing/ Accommodations	I 530 General	I 863 DWCA/DIW (405(g))	I 893 Environmental Matters
240 Torts to Land	I 444 Welfare	I 535 Death Penalty	I 864 SSID Title XVI	I 894 Energy Allocation Act
245 Tort Product Liability	I 440 Other Civil Rights	L 540 Maudamus & Other	I 865 RSI (405(g))	I 895 Freedom of Information Act
290 All Other Real Property		I 550 Civil Rights		I 900 Appeal of Fee Determination Under Equal Access to Justice
		I 555 Prison Conditions		I 950 Constitutionality of State Statutes
				890 Other Statutory Actions

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

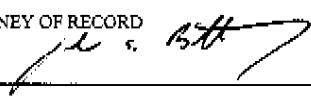
Transferred from

Appeal to District

- | | | | | | | |
|-------------------------|----------------------------|---------------------------------|--------------------------|------------------------------|----------------------------|----------------------------------|
| X 1 Original Proceeding | 2 Removed from State Court | 3 Remanded from Appellate Court | 4 Reinstated or Reopened | 5 another district (specify) | 6 Multidistrict Litigation | 7 Judge from Magistrate/Judgment |
|-------------------------|----------------------------|---------------------------------|--------------------------|------------------------------|----------------------------|----------------------------------|

VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Complaint to Confirm Arbitration Award

REQUESTED IN COMPLAINT: \$375,000.00	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ 375,000.00 plus interest	CHECK YES only if demanded in complaint: JURY DEMAND: YES <input checked="" type="checkbox"/> NO
VIII. RELATED CASE(S) IF ANY:		JUDGE: Bernard A. Friedman	DOCKET NUMBER: 2:04-cv-74625
DATE: April 19, 2007		SIGNATURE OF ATTORNEY OF RECORD  /s/Jordan S. Bolton Jordan S. Bolton (P66309)	

QUESTION TO LOCAL RULE 83.1

1. Is this a case that has been previously discontinued or dismissed? YES
 NO

If yes, give the following information:

Court: USDC Eastern District of Michigan, Southern Division

Case No.: 2:04-cv-74625-BAF-WC

Judge: Bernard A. Friedman

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.) YES
 NO

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes: